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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,940	11/04/2003	Charles E. Heger	549242002200	7139
25226	7590	11/29/2004	EXAMINER	
MORRISON & FOERSTER LLP			GUADALUPE, YARITZA	
755 PAGE MILL RD			ART UNIT	
PALO ALTO, CA 94304-1018			PAPER NUMBER	
			2859	

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/701,940

Applicant(s)

HEGER ET AL

Examiner

Yaritza Guadalupe McCall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 and 40-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6,35-38 and 40-47 is/are allowed.
- 6) ☒ Claim(s) 7,8,13,14,18-26,30,31,48,49 and 51 is/are rejected.
- 7) ☒ Claim(s) 9-12,15-17,27-29,32-34,50 and 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to Amendment filed September 8, 2004

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18 – 25 are rejected under 35 U.S.C. 102 (b) as being anticipated by Dong (US 5,864,956).

Dong discloses a device comprising a plurality of housings (See Figures 2 and 3) having two or more reference sides adapted to be supported on a reference surface, wherein each reference side defines a corresponding reference plane; and a light source (2) in the housing and emitting light having a predetermined orientation with respect to each of the reference planes. Dong discloses said module having at least three reference sides and defining six sides being rectangular in shape, and one of the sides defining an aperture whereby light from the light

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source passes out (See Figures 2 and 3). Dong discloses the rectangular sides having linear dimensions defining a cube. Dong also discloses the light source being a laser diode (See Column 2, line 9). Dong teaches a device wherein the predetermined orientation of the light source could be parallel, or orthogonal, or a plane of light projecting a line.

3. Claims 18 and 26 rejected under 35 U.S.C. 102 (b) as being anticipated by Rando (US 6,005,719).

Rando discloses a laser tool having a housing (48, 100) having two or more reference sides defining a reference plane, said housing having a light source (in the housing and emitting light having a predetermined orientation with respect to each of the reference planes. Rando also discloses the light emitted from the housing forming a linear beam of light that projects a spot on a distant surface.

4. Claims 30 – 31 are rejected under 35 U.S.C. 102 (e) as being anticipated by Clinton (US 2001/0027611).

Clinton discloses an apparatus comprising a light source (14), a housing (12) for the light source, and including an electrically conductive member / conductive lead (24) coupled to the light source (14) and extending from the housing (See paragraph [0029]), wherein said conductive lead includes a wire.

5. Claims 49 and 51 are rejected under 35 U.S.C. 102 (e) as being anticipated by Jan et al. (US 6,739,062).

Jan et al. discloses a device comprising a housing (13) having a plurality of sides, an aperture (1331) defined in a first side (1331), and a magnetic fastener (116A) on at least a second side (bottom side), said magnetic fastener including at least one magnet (116A) mounted for rotation on the second of the sides. Jan et al. further discloses a light source (131) mounted within the housing (13) and whereby the aperture (1331) allows light from the light source (131) to pass from the housing. Jan et al. also discloses said magnet (116A)being movable / rotatable in a cavity (1121) defined in the second side.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7 – 8, 13 – 14 and 48 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Dong (US 5,864,956) in view of Jan et al. (US 6,739,062).

Dong discloses an apparatus having a plurality of housings (7) having a plurality of sides, said housings connected within each other, an aperture (6) defined in a first of the sides, a light source (2) mounted within the housing and wherein the aperture allows the light from the light source to pass and further including a lens (1), said light source has a predetermined orientation.

Dong does not disclose the magnetic fasteners as stated in claims 7 – 8, 13 - 14 and 48

Regarding claims 7 – 8, 13 - 14 and 48 : Jan et al. discloses an apparatus for angular measurements having a housing (13), an aperture (1331) defined in a first side (1311), and a magnetic fastener (116A) in one of the sides (bottom side), said magnetic fastener being a magnet (116A) rotatably mounted around a shaft (111) on the bottom side and spread around the aperture (1121) in order to rotatably couple the housing to the support. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a magnetic fastener as taught by Jan et al., on each the sides of the housing disclosed by Dong in order to rotatably couple the multiple housings during use so as to increase the accuracy of the predetermined direction of the light source.

Allowable Subject Matter

8. Claims 9 – 12, 15 – 17, 27 – 29, 32 – 34, 50 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 1 – 6, 35 – 38, 40 - 47 are allowed.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244. The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yaritza Guadalupe
Patent Examiner
Art Unit 2859
November 23, 2004



CHRISTOPHER W. FULTON
PRIMARY EXAMINER